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IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

NO. 75-325

TEXAS CHEMICAL COUNCIL, *Petitioner*

v.

ENVIRONMENTAL PROTECTION AGENCY,
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Texas Chemical Council petitions for a writ of certiorari to review the decision and judgment of the Fifth Circuit Court of Appeals rendered in *State of Texas et al. v. Environmental Protection Agency*, No. 73-3540.

OPINION BELOW

The opinion of the Court of Appeals is reported at 499 F.2d 289.[1]

JURISDICTION

The judgment of the Court of Appeals was entered on August 7, 1974. A timely petition for rehearing was filed

1. See App. A to the Petition for Writ of Certiorari filed in this case by Exxon Corporation et al.

on September 3, 1974, and denied on February 19, 1975.[2] Thereafter, the Fifth Circuit denied a second petition for rehearing on April 3, 1975.[3] On June 27, 1975, an extension of the time to file this petition for writ of certiorari to and including August 31, 1975 was granted (No. A-1063). The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

The questions presented for review by this Court are:

1. Whether the Administrator of the Environmental Protection Agency can lawfully promulgate control measures in a substitute implementation plan under Section 110(c) of the Clean Air Act, 42 U.S.C. § 1857c-5(c), without consideration of technological infeasibility, safety, and other public interest factors?

2. Whether the Administrator of the Environmental Protection Agency has statutory authority under the Clean Air Act to regulate vapor emissions from ships and barges despite Congress' deliberate deletion from the Act of provisions for control of vessel emissions?

STATUTES AND REGULATIONS INVOLVED

This petition involves the ship and barge hydrocarbon vapor recovery regulation of the Texas Transportation Control Plan, 40 C.F.R. § 52.2287,[4] which was promul-

2. See App. B to the Petition for Writ of Certiorari filed in this case by Exxon Corporation et al.

3. See App. C to the Petition for Writ of Certiorari filed in this case by Exxon Corporation et al.

4. See App. D to the Petition for Writ of Certiorari filed in this case by Exxon Corporation et al.

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ated by Respondent Environmental Protection Agency on November 6, 1973 pursuant to Sections 110(a)(2) and 110(c) of the Clean Air Act, as amended, 84 Stat. 1680, 42 U.S.C. § 1857c-5(a)(2), (c).[5]

STATEMENT OF THE CASE

The Texas Chemical Council, a trade association of sixty-four (64) chemical companies, adopts the statement set forth in the petition for writ of certiorari filed in this case by Exxon Corporation et al.

REASONS FOR GRANTING THE WRIT

The Texas Chemical Council endorses and adopts the reasons set forth in the petition for writ of certiorari filed on behalf of Exxon Corporation et al. Accordingly, this petition and the petition of Exxon et al. should be granted so that conflicts between the Fifth Circuit and this Court's decision in *Train v. Natural Resources Defense Council, Inc.*, No. 73-1742, decided April 16, 1975, as well as among the various circuits, regarding EPA's statutory authority and duty to consider technological in-

5. See App. E to the Petition for Writ of Certiorari filed in this case by Exxon Corporation et al.

feasibility and related public interest factors can be comprehensively resolved together with other pending petitions for certiorari.[6]

Respecfully submitted,

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6. *St. Joe Minerals v. Environmental Protection Agency*, No. 74-1650, filed June 28, 1975; *Union Electric Co. v. Environmental Protection Agency*, No. 74-1542, filed June 9, 1975.

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CERTIFICATE OF SERVICE

I hereby certify that three printed copies of the foregoing Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit has been mailed this 30th day of August, 1975, postage prepaid to:

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